

SUMMARY REPORT OF INVESTIGATION¹

Date/Time/Location of Incident:	May 23, 2016/8 PM/ [REDACTED]
Date/Time of COPA Notification:	May 24, 2016/9:37 PM
Involved Officer #1:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED] Date of Appointment: [REDACTED], 2015, Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1993, Male, White
Involved Officer #2:	[REDACTED], Star # [REDACTED], Employee ID # [REDACTED] Date of Appointment: [REDACTED], 1997, Police Officer, Unit of Assignment: [REDACTED], DOB: [REDACTED], 1963, Male, Black
Involved Individual #1:	[REDACTED], Juvenile, Male, Black
Involved Individual #2:	[REDACTED], Juvenile, Female, Black
Involved Individual #3:	[REDACTED], [REDACTED] Dog
Case Type:	Unnecessary Display of Weapon and Destruction of Animal

I. ALLEGATIONS

Officer	Allegation	Finding
Officer [REDACTED] [REDACTED] # [REDACTED]	1. Unnecessarily pointed his weapon at [REDACTED].	Not Sustained
	2. Unnecessarily pointed his weapon at [REDACTED].	Not Sustained
	3. Unreasonably used deadly force when he discharged his firearm at a dog.	Unfounded
Officer [REDACTED] [REDACTED] # [REDACTED]	1. Discharged his firearm in the air as a warning shot.	Not Sustained
	2. Unreasonably used deadly force when he discharged his firearm at a dog.	Unfounded

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

II. SUMMARY OF EVIDENCE²

COPA's investigation included interviews of the accused officers, Officers [REDACTED] # [REDACTED]³ and Officer [REDACTED] # [REDACTED]⁴; the complainant, [REDACTED] (" [REDACTED]");⁵ and a civilian witness, [REDACTED].⁶ COPA attempted to interview the complainant's three children including [REDACTED] and [REDACTED], but [REDACTED] refused to give consent. Chicago Police Department ("CPD") reports⁷, RD # [REDACTED], documenting the incident were also collected, which included summaries of Officers [REDACTED] and [REDACTED]'s account.

Upon a review of the compiled evidence COPA finds the following narrative occurred by a preponderance of the evidence. On May 23, 2016, at approximately 8 PM around [REDACTED], Officers [REDACTED] and [REDACTED] observed a dog, specifically a pit bull, biting a male civilian about the leg.^{8,9} The dog ran away as the officers approached it. After calling for medical assistance, Officers [REDACTED] and [REDACTED] drove in search for the dog. Near [REDACTED], Officers [REDACTED] and [REDACTED] observed the same dog biting another male civilian about the leg.^{10, 11} There were three children standing near the curb where the officers parked their vehicle. The dog ran across the street, Officers [REDACTED] and [REDACTED] exited their vehicle, and tactically positioned themselves in between the children and dog. Officer [REDACTED] told the children to stay back. The dog ran towards them at a high speed. At this point, the officers unholstered their weapons and discharged them at the dog. The dog then ran through a gangway to the backyard. Officer [REDACTED] chased after the dog. Once in the backyard, the pitbull again ran at Officer [REDACTED] at which time he discharged his weapon at the dog destroying it. Officer [REDACTED] remained in front of the house and called over the radio that he and Officer [REDACTED] discharged their weapons. There are conflicting accounts whether anyone arrived in the backyard or exited the house once Officer [REDACTED] was there.

[REDACTED] claimed¹² that Officer [REDACTED] pointed his weapon at her children, that Officer [REDACTED] discharged his firearm in the air as a warning shot, and that both officers were unreasonable and excessive when they discharged their weapons at the dog. Contrarily, the officers stated neither officer pointed his weapon at the children and neither officer discharged his weapon in the air.

²COPA conducted a full and complete investigation of this matter, including the interview of all pertinent civilian and officer witnesses, and the collection and review of digital, documentary, and forensic evidence. As part of COPA's ongoing efforts to increase case closure capacity, certain cases opened under IPRA are summarized more succinctly in a Modified Summary Report of Investigation, pursuant to COPA Guideline Modified Summary Report of Investigation Template and Approvals, effective February 13, 2019.

³ Attachment 52

⁴ Attachment 61

⁵ Attachment 11

⁶ Attachments 29 and 33

⁷ Attachment 19

⁸ See Attachment 12 (OEMC Event Query)

⁹ See Attachments 32 and 34 (Chicago Fire Department reports state the civilian was bit on his right foot).

¹⁰ See Attachment 12

¹¹ See Attachments 32 and 34 (Chicago Fire Department reports state the civilian was bit on his right ankle and calf).

¹² Attachments 11 and 40

III. LEGAL STANDARD

For each Allegation COPA must make one of the following findings:

1. Sustained - where it is determined the allegation is supported by a preponderance of the evidence;
2. Not Sustained - where it is determined there is insufficient evidence to prove the allegations by a preponderance of the evidence;
3. Unfounded - where it is determined by clear and convincing evidence that an allegation is false or not factual; or
4. Exonerated - where it is determined by clear and convincing evidence that the conduct described in the allegation occurred, but it is lawful and proper.

A **preponderance of evidence** can be described as evidence indicating that it is **more likely than not** that the conduct occurred and violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not). If the evidence gathered in an investigation establishes that it is more likely that the misconduct occurred, even if by a narrow margin, then the preponderance of the evidence standard is met.

Clear and convincing evidence is a higher standard than a preponderance of the evidence but lower than the "beyond-a-reasonable doubt" standard required to convict a person of a criminal offense. See *e.g., People v. Coan*, 2016 IL App (2d) 151036 (2016). Clear and Convincing can be defined as a "degree of proof, which, considering all the evidence in the case, produces the firm and abiding belief that it is highly probable that the proposition . . . is true." *Id.* at ¶ 28.

IV. ANALYSIS AND CONCLUSION

- a. Officer [REDACTED] Unnecessarily Pointed his Weapon at [REDACTED] and [REDACTED]

COPA finds that Allegations #1-2 against Officer [REDACTED], that he unnecessarily pointed his weapon at [REDACTED] and [REDACTED], are Not Sustained. Officer [REDACTED] denied this allegation. Officer [REDACTED] also stated Officer [REDACTED] did not point his weapon at anyone. [REDACTED] alleged this, but she did not witness it and would not allow COPA to interview [REDACTED] and [REDACTED]. While it is clear that Officer [REDACTED] displayed his weapon, it is not clear by a preponderance of the evidence that he pointed it at or in the general direction of [REDACTED] and [REDACTED]. Due to the lack of evidence, COPA could not determine whether he did. Therefore, COPA finds that Allegations #1-2 against Officer [REDACTED] are Not Sustained.

- b. Discharged his firearm in the air as a warning shot

COPA finds Allegation #1 against Officer [REDACTED], that he discharged his firearm in the air as a warning shot to be Not Sustained. Officer [REDACTED] denied this allegation. There is no additional evidence or available information to corroborate or refute anyone's statements. While it is clear that Officer [REDACTED] discharged his weapon during the incident, it is not clear by a preponderance of the evidence if he discharged it in the air. Therefore, COPA finds Allegation #1 against Officer [REDACTED] is Not Sustained.

c. Use of Deadly Force when Officers [REDACTED] And [REDACTED] Discharged their Firearms at the Dog

COPA finds Allegation #3 against Officer [REDACTED] and Allegation #2 against Officer [REDACTED] that they unreasonably used deadly force when they discharged their firearm at a dog to be Unfounded. The dog was a threat since it charged at the officers after it caused physical injury to two individuals. Based on the totality of the circumstances, it was reasonable to destroy the dog before it could harm anyone else.

Approved: [REDACTED]

Deputy Chief Administrator – Chief Investigator

Date

3-25-19

Appendix A

Assigned Investigative Staff

Squad#:	[REDACTED]
Investigator:	[REDACTED]
Supervising Investigator:	[REDACTED]
Deputy Chief Administrator:	[REDACTED]

